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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/456,166	12/07/1999	JOSE VILLENA	CELLIT-003XX	6064

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BOURQUE & ASSOCIATES, P.A.
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SUITE 303
MANCHESTER, NH 03104

EXAMINER

BLOUNT, STEVEN

ART UNIT	PAPER NUMBER
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2661

13

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/456,166

Applicant(s)

VILLENA ET AL.

Examiner

Steven Blount

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16 - 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16 - 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/20/04 has been entered.
2. The examiner has received a large number of printed publications for him to consider, but has not received an accompanying 1449 form for him to sign.

Claim Objections

3. Claims 21 – 22 are objected to because of the following informalities: "lots" in line 2 of claim 21 and line 2 of claim 22 should read "slots". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 16 – 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 16, "said area network" in line 7 lacks antecedent basis.

With regard to the language used in lines 9, 11, 13, and 15, the sentences comprising words a (first, second, ...) point of interface designating a number of... is indefinite, because an interface is a point of attachment, and does not designate a number. Applicant should use words which positively describe the physical arrangement, such as "connected to".

7. Claims 16 – 27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In claim 16, beginning in line 3, applicant has claimed a contact center which comprises a local area network in combination with a first and at least a second switching apparatus, said first and second switching apparatus corresponding to a plurality of CCPRO switches as described in the specification beginning on page 4 lines 21+ and referenced many times throughout (it is apparently referred to as a "chasis" in the summary of the invention). The examiner notes that applicant has described it in the specification as being a TDM switch (page 6, lines 2+). The examiner believes that to implement it in the manner as claimed with respect to trunk lines, agent stations, and

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processing resources, and to connect to a public network, one of ordinary skill in the art would require more than what is described in the specification.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 16 – 19, 24, and 25 - 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 6,157,655 to Shtivelman in view of U.S. patent 6,005,920 to Fuller et al.

With regard to claim 16, Shtivelman teaches a call center 51 comprising LAN 77, switching apparatus 69, agent stations 81, trunks 55, and the switching apparatus 69 able to communicate with another member over the LAN 77 and also through a direct connection 73. Shtivelman does not however teach the “another member” to explicitly be another switching apparatus which is able to carry the load from the trunk and agent stations. In figure 2 of Fuller et al is shown a pair of switching members 140/150 which are able to acquire the load from one another through lines 162/165/141 in the event of failure. It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided Shtivelman with an additional switching member able to carry the entire load of a first switching member in light of the teachings of Fuller et al in order to provide a means for allowing for switchover in case of a faulty switch.

With regard to claim 17, see PSTN 47.

With regard to claim 18, see col 8 line 15 (internet telephony).

With regard to claim 19, see the additional resources mentioned in col 2 lines 20+.

With regard to claim 24, see col 1 line 50 of Shtivelman.

With regard to claim 25, Fuller teaches a backup apparatus as described in paragraph 1 above.

With regard to claims 26 – 27, M equals one in fuller, and having it less than N would be an obvious matter of design choice.

10. Claims 20 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 6,157,655 to Shtivelman in view of U.S. patent 6,005,920 to Fuller et al as applied above, and further in view of either one of 1) U.S. patent 6,285,680 to Steinka et al, or 2) U.S. patent 6,363,065 to Thornton et al.

With regard to claim 20, Shtivelman/Fuller et al teach the invention as described above, but does not explicitly teach the switch (69) to be a TDM switch. A switch used in a similar environment is taught in figure 2 (see the numeral 200) of Steinka et al, and column 12 of Thornton et al.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided Shtivelman/Fuller with a TDM switch, in light of the teachings of either one of Steinka et al or Thornton et al, in order to provide a means of switching the data which is reliable, inexpensive, and expandable.

With regard to claims 21 and 23, the act of setting T, S, R, and B such that the contact center is “linearly expandable” is described in the specification on page 6, first

and second paragraph, wherein it is stated in line 5 that "By setting the time slots appropriately...". This is merely optimizing the switches to ensure that the best possible use of the bandwidth is made, wherein it is well within the ordinary skill in the art to optimize parameters such as this under these conditions in order to ensure the best performance.

With regard to claim 22, see the discussion of T, S, R, and B above, as well as the rejection of claim 21.

Response to Arguments

11. Applicant's arguments filed 5/20/04 have been fully considered but they are not persuasive.

Applicant states in their remarks that the examiners rejection under 102(a) as being known or used by others in this country before the date of invention is evidence of the fact that one skilled in the art would know what a CCPRO is and how it works (see page 10, first paragraph of the amendment). In response, the examiner notes that even one public use or sale is enough to qualify under this portion of the statute, and that there is not sufficient evidence that even though it was in public use, it was widely enough known that one of ordinary skill in the art would know of its operation in sufficient detail as to provide sufficient enablement for the claims as discussed above. The applicant states that it is mentioned in the specification that the "switching and resource platform *may* be implemented as the CCPRO product, available from the assignee of the present invention" (emphasis added). Regardless, the examiner believes that the specification does not contain sufficient detail regarding the

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implementation of these switches, even if it is stated that they are available from the assignee. The examiner believes that it is most probable that the word "invention" on page 4-11 signifies that this document refers to the applicants invention, including both the sentence regarding "linear growth" to which it points, and the rest of the document, in view of what is described in the paragraph under the word "products".

The examiner notes that applicant, in responding to the rejection under 35 U.S.C. 102(a) in the previous Office action, has stated that the printed publications "Outbound Call Processing Markets, Products and Suppliers – 1999" (June 1999) and "Contact Center Professional 4" do not teach the claimed invention. Specifically, applicant states that the word "invention" only states the object of the invention, and should not be taken as an admission that the article describes the *claimed* invention. Applicant also states that the article "Contact Center Professional 4" does not teach the *claimed* invention.

The examiner believes that the paragraph under the word "products" on page "4 – 11" of the 1.131 Affidavit submitted by the applicant describes the CCPRO invention in enough of its aspects relative to what is claimed (see the use of the words "blending", "internet/intranet applications", "at-home agents, network access trunks" within this paragraph) that, in addition to the CallCenter article which states "Since December 1998, when we started using [CCPRO], our revenue has doubled", it is reasonable for the examiner to request that the applicant specifically state which portion of the claimed invention is new, and which (if any) has been publicly known or used prior to the filing date of this application. The examiner also believes that this request is reasonable in view of the fact that the applicant has used the word CCPRO throughout the

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specification, and these two printed publications reference the CCPRO directly. Also, the CCPRO appears to form the majority of what is being claimed in claim 1, based upon the teachings of the specification.

Finally, the examiner would like to note the following document which was submitted by the applicant: "3COM: CellIT launches breakthrough multimedia call center solution based on high-speed 3Com systems (M2 Presswire; Coventry; March 4, 1998). This article also references the CCPRO directly, in what the examiner believes is rather specific detail in the second page.

12. Examiner Steven Blount may be reached at 703-305-0319 between the hours of 9:00 and 5:30 Monday through Friday.


Ajit Patel
Primary Examiner

SB



8/11/04